

application ser. no. 10/688,423

REMARKS

1. Applicant thanks Office for the Office's remarks and suggestions which have greatly assisted Applicant in responding.

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2. **35 U.S.C. § 112**

Claim 26 is rejected under 35 U.S.C. § 112, 1st paragraph as failing to comply with the written description requirement. The Office alleges that the expression "number of songs that are cached is specified by a user" is unsupported by the specification. While Applicant disagrees with the present rejection for reasons given in previous papers, which are incorporated herein by this reference thereto, in the interest of advancing prosecution of the application, the offending language is cancelled from the application. The present rejection is therefore deemed overcome.

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2. **35 U.S.C. § 103**

Claims 1, 6 and 16 are rejected as being unpatentable over U.S. Patent No. 66,502,194 ("Berman") in view of U.S. published application no. 2001/0030660 ("Zainoulline") and further in view of U.S. published application no. 2002/0059237 ("Kumagai").

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Claim 1: In order to describe the subject matter of claim 1 more clearly, claim 1 is amended to describe "wherein as soon as said target song starts to play, deleting all pre-cached songs preceding said target song in said pre-determined sequence."

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Support for the amendment is found at Figs. 3C and 3D of the published application and at least at ¶¶ 0078 of the specification: Because all pre-cached files which are prior to the song in this sequence have been deleted from the buffer "There is no teaching or suggestion of such subject matter in the combination. At

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col. 12, lines 49-52, Berman describes "If a user decided not to listen to the current song and skips it entirely on playback, it remains in the playback unit memory so the user can return to the skipped song and listen to it." Zainouline and Kumagai add nothing to Berman. Accordingly, as amended, claim 1 describes subject matter that is neither taught nor suggested by the combination. The present rejection of claim 1 is therefore deemed overcome.

Claims 6, 16 and 31: Claims 6, 16 and 31 are amended in the same manner as claim 1. Accordingly, the rejection of these claims is also overcome.

In view of their dependence from allowable parent claims, the dependent claims are deemed allowable without any separate consideration of their merits.

3. A number of the claims are amended to correct grammatical errors. No new matter is added by way of any of the amendments to the claims.

4. The above amendments are made only to describe the invention in greater detail, in the interest of advancing prosecution of the application. They do not signify agreement by Applicant with the Examiner's position. Nor do they indicate intention to sacrifice claim scope. Applicant expressly reserves the right to pursue patent protection of a scope it reasonably believes it is entitled to in one or more continuing applications.

5. For the record, Applicant respectfully traverses any and all factual assertions in the file that are not supported by documentary evidence. Such include assertions based on findings of inherency, assertions based on official notice, and any other assertions of what is well known or commonly known in the prior art.

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CONCLUSION

In view of the foregoing, the claims are deemed to be in allowable condition. Applicant therefore earnestly requests reconsideration and prompt allowance of the
5 claims. Should the Examiner have any questions regarding the Application, he is urged to contact Applicant's attorney at 650-474-8400.

Respectfully submitted,



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